

REMARKS

Claims 55, 56, 59, and 60 are allowed. *See*, Office Action, page 5.

In this Response, Applicants amend claims 1-3, 6, 8, 20-22, 41, 43, and 68, add new claim 71, and cancel claim 56 without prejudice or disclaimer. No new matter has been added. Support for the claim amendments and for new claim 71 can be found at least in Applicants' Figures 2-4 and related text.

Claims 1-3, 6, 8, 11-17, 20-22, 24-26, 31, 39-43, 55, 59, 60, 68, 69, and 71 are currently pending, of which claims 1, 55, and 68 are independent. Claims 44-52 remain withdrawn. Applicants respectfully submit that all of the pending claims are in condition for allowance.

I. Allowable Subject Matter

Applicants appreciatively note that claims 55, 56, 59, and 60 are allowed. *See*, Office Action, page 5.

II. Telephone Interview with the Examiner

Applicants thank the Examiner for the telephone interview conducted on May 16, 2011 with David Burns, the attorney of record. During the interview, the Examiner indicated the allowability of previously presented claim 55, and suggested amending claims 1 and 68 to clarify the structure of the non-liquid jet tissue-excision component previously presented in claims 1 and 68. No resolution was reached regarding any of the claims as the attorney of record needed to discuss the suggested amendments with Applicants.

III. Amendments to the Claims

In view of the Examiner interview but without acquiescing to any of the Examiner's allegations set forth in the Office Action, Applicants amend independent claims 1 and 68 to further clarify the structure of the claimed tissue-excision component. In particular, Applicants amend claims 1 and 68 to characterize the claimed tissue-excision component as a *curette* tissue-excision component based on the exemplification provided by the Examiner. *See*, Office Action, page 3.

Applicants amend independent claim 1 to recite a “curette tissue-excision component” comprising a “body portion located substantially opposite the jet-receiving opening and extending radially outward from a location defined by an axial center of the nozzle to a radial periphery” and a “sharpened edge located at the radial periphery and extending circumferentially about the body portion in a direction substantially perpendicular to the axial center of the nozzle.” Similarly, Applicants amend independent claim 68 to recite a “curette tissue-excision component” comprising an “excision portion located substantially opposite the jet-receiving opening and extending radially outward from a location defined by an axial center of the nozzle to a radial periphery” and a “sharpened edge located at the radial periphery and extending circumferentially about the excision portion in a direction substantially perpendicular to the axial center of the nozzle.”

No new matter is added. Support for the claim amendments can be found at least in Applicants’ Figures 2-4 and related text. More specifically, as illustrated in Applicants’ Figures 2 and 3 and as described in the related text, an exemplary tissue-excision component includes a body or excision portion (for example, the portion including receptacle 206), and a sharpened edge (for example, as provided by at least a portion of rim 108 of receptacle 206) provided at a radial periphery of the body or excision portion and extending about the body or excision portion.

The amendments to claims 1 and 68 should not be construed as an acquiescence to the grounds for any of the Examiner’s rejections set forth in the Office Action.

IV. Objection to Claim 56

Claim 56 is objected to under 37 C.F.R. § 1.75(c) as being in improper dependent form for failing to further limit the subject matter of a previous claim. *See*, Office Action, page 2.

Applicants cancel claim 56 without prejudice or disclaimer. No new matter is added. Accordingly, Applicants respectfully submit that the objection to claim 56 is moot.

V. Rejection of Claims 1-3, 6, 8, 11-17, 20-22, 24-26, 31, 39-43, 68, and 69 under 35 U.S.C. § 112, Second Paragraph

Claims 1-3, 6, 8, 11-17, 20-22, 24-26, 31, 39-43, 68, and 69 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. *See*, Office Action, pages 3 and 4. Applicants respectfully traverse the 35 U.S.C. § 112, second paragraph, rejection of claims 1-3, 6, 8, 11-17, 20-22, 24-26, 31, 39-43, 68, and 69 as set forth below.

A. Claims 1-3, 6, 8, 11-17, 20-22, 24-26, 31, and 39-43

With regard to previously presented claim 1, the Examiner alleges that claim 1 is incomplete for omitting a recitation of a structure of the non-liquid jet tissue-excision component. Applicants respectfully disagree with the Examiner's allegations regarding previously presented claim 1, and submit that, based on the teachings in the specification and the knowledge available in the art at the time of invention, one of ordinary skill in the art would find previously presented claim 1 to be clear and definite.

Nonetheless, without acquiescing to the Examiner's allegations regarding previously presented claim 1 and solely in the interest of expediting prosecution, Applicants amend claim 1 to characterize the claimed tissue-excision component as a *curette* tissue-excision component based on the exemplification provided by the Examiner. *See*, Office Action, page 3. In particular, Applicants amend claim 1 to recite a "curette tissue-excision component" comprising a "body portion located substantially opposite the jet-receiving opening and extending radially outward from a location defined by an axial center of the nozzle to a radial periphery" and a "sharpened edge located at the radial periphery and extending circumferentially about the body portion in a direction substantially perpendicular to the axial center of the nozzle." No new matter is added.

Accordingly, Applicants respectfully submit that the recitation of a "curette tissue-excision component" comprising a "body portion" and a "sharpened edge" in amended claim 1 adequately sets forth an exemplary structure for the "curette tissue-excision component." In particular, amended claim 1 clarifies that the body portion of the curette tissue-excision component extends radially outward from a location defined by an axial center of the nozzle to a

radial periphery, and that the sharpened edge is located at the radial periphery of the body portion and extends circumferentially about the body portion.

With regard to previously presented claim 6, the Examiner indicates that it appears that the excision component is intended to comprise the cup-shaped tissue receptacle. Without acquiescing to the Examiner's allegations regarding claim 6 and solely in the interest of expediting prosecution, Applicants amend claim 6 to recite that the "body portion of the curette tissue-excision component" comprises "a cup-shaped tissue receptacle configured and positioned to contain tissue excised by the curette tissue-excision component...." No new matter is added. Accordingly, Applicants respectfully submit that the above recitation in amended claim 6 clarifies that the body portion of the curette tissue-excision component includes the claimed cup-shaped tissue receptacle in one exemplary embodiment.

With regard to previously presented claim 8, the Examiner alleges that there is insufficient basis for the recitation of "the rim of the receptacle" and "non-fluid jet tissue-excision component" in claim 8. Without acquiescing to the Examiner's allegations regarding claim 8 and solely in the interest of expediting prosecution, Applicants amend claim 8 to depend from claim 6 and to recite that "at least a portion of a rim of the receptacle is sufficiently sharp to form a tissue-cutting blade comprising the sharpened edge of the body portion of the curette tissue-excision component." No new matter is added. Accordingly, Applicants respectfully submit that there is adequate antecedent basis for the above recitations in amended claim 8.

For at least the reasons set forth above, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 112, second paragraph, rejection of claims 1, 6, and 8, and claims 2, 3, 11-17, 20-22, 24-26, 31, and 39-43 that depend from claim 1.

B. Claims 68 and 69

With regard to previously presented claim 68, the Examiner alleges that claim 68 is incomplete for omitting a recitation of a structure of the non-liquid jet tissue-excision component. Applicants respectfully disagree with the Examiner's allegations regarding previously presented claim 68, and submit that, based on the teachings in the specification and the knowledge available in the art at the time of invention, one of ordinary skill in the art would find previously presented claim 68 to be clear and definite.

Nonetheless, without acquiescing to the Examiner's allegations regarding previously presented claim 68 and solely in the interest of expediting prosecution, Applicants amend claim 68 to characterize the claimed tissue-excision component as a *curette* tissue-excision component based on the exemplification provided by the Examiner. *See*, Office Action, page 3. In particular, Applicants amend claim 68 to recite a "curette tissue-excision component" comprising an "excision portion located substantially opposite the jet-receiving opening and extending radially outward from a location defined by an axial center of the nozzle to a radial periphery" and a "sharpened edge located at the radial periphery and extending circumferentially about the excision portion in a direction substantially perpendicular to the axial center of the nozzle." No new matter is added.

Accordingly, Applicants respectfully submit that the recitation of a "curette tissue-excision component" comprising an "excision portion" and a "sharpened edge" in amended claim 68 adequately sets forth an exemplary structure for the "curette tissue-excision component." In particular, amended claim 68 clarifies that the excision portion of the curette tissue-excision component extends radially outward from a location defined by an axial center of the nozzle to a radial periphery, and that the sharpened edge is located at the radial periphery of the excision portion and extends circumferentially about the excision portion.

Further, with regard to previously presented claim 68, the Examiner also alleges that there is insufficient antecedent basis for the recitation of "the jet-receiving opening" in claim 68. Without acquiescing to the Examiner's allegations regarding claim 68 and solely in the interest of expediting prosecution, Applicants amend claim 68 to remove the recitation of "the jet-receiving opening." No new matter is added. Accordingly, Applicants respectfully submit that there is adequate antecedent basis for the recitations in amended claim 68.

With regard to claim 69, the Examiner points to the recitation of "jet-receiving opening" in previously presented claim 68 and in claim 69 and indicates that it is unclear whether the claimed curette device has two jet-receiving openings. Without acquiescing to the Examiner's allegations regarding claim 69 and solely in the interest of expediting prosecution, Applicants amend claim 68 to remove the recitation of "the jet-receiving opening," while retaining the recitation of a "jet-receiving opening" in claim 69. No new matter is added. Accordingly, Applicants respectfully submit that claim 69 clearly sets forth the structure of the claimed curette

device as comprising an evacuation lumen comprising a jet-receiving opening in an exemplary embodiment.

For at least the reasons set forth above, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 112, second paragraph, rejection of claims 68 and 69.

CONCLUSION

In view of the above amendments and remarks, Applicants believe that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact Applicants' attorney at (617) 449-6500.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-4876, under Order No. 118152-03801. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this submission timely.

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Respectfully submitted,

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